

### **Remarks**

Claims 1-36 are pending and rejected or objected to, as set forth below. Claims 1-3, 9-12, 22, 27-29 and 31 are amended. Claim 6 is canceled. No new matter is added.

### **Amendments to the Claims**

Claim 1 is amended to incorporate some of the contents of claim 6. Claims 2 and 3 are amended to remove the general groups on inorganic nitrates and organic nitro compounds.

Claims 9-12 and 31 are amended to change “m” to moles/kg of solvent.

Claim 27 are amended to recite more specific N-O additives from claims 28 and 29 below, which have also been amended accordingly.

No new matter is added.

### **Amendment to the Specification**

Applicant has amended the specification to include the Cross Reference to Related Applications. No new matter has been added

### **Information Disclosure Statement**

Applicant is concurrently filing herewith under separate cover an Information Disclosure Statement by Applicant (and respectfully requests that the cited documents be made of record in the above-referenced application. The present Information Disclosure Statement is being filed after the receipt of the first office action and is accompanied by the appropriate fee pursuant to 37 C.F.R. §1.17(p).

### **Non-Statutory Obviousness-Type Double Patenting**

Claims 1-3, 5, 6, 7-12, 14-15, 19-24,27-33 and 36 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3-9, 12-14, 18,39,41 &45 of U.S. Patent No. 7, 354,680 (*Mikhaylik*). To overcome the rejection of pending claims 1-3, 5, 6, 7-12, 14-15, 19-24,27-33 and 36, Applicant encloses herewith a Terminal Disclaimer in compliance with 37 C.F.R. 1.321(c) over U.S. Patent No. 7, 354,680 (*Mikhaylik*) which is commonly owned with this application. Please charge our deposit account

number 19-3878 in the amount of \$70.00 to cover the terminal disclaimer fee required under 37 C.F.R. 1.20(d). Applicant respectfully requests that the double-patenting rejection be withdrawn.

### **Claim Rejections Under 35 U.S.C. §112**

Claims 9-12 and 31 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The amendments to claims 9-12 and 31 obviate the rejections under § 112. Reconsideration and withdrawal of the rejections are respectfully requested.

### **Claim Rejections Under 35 U.S.C. §103**

Claims 1-14 and 16-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,822,812 (hereinafter, “Visco ‘812”) in view of U.S. Patent No. 6,432,584 (hereinafter “Visco ‘584”).

In order to show a prima facie case of obviousness, the prior art must teach or suggest all of the limitations of the claims.

As amended, independent claim 1 requires one or more N-O additives selected from one or more of the group consisting of organic nitrates, inorganic nitrites, potassium nitrate, cesium nitrate, barium nitrate, and ammonium nitrate, nitropropane, nitrobenzene, dinitrobenzene, nitrotoluene, dinitrotoluene, nitropyridine, nitrobutanes, and dialkyl imiazolium.

None of the prior art cited by the Examiner teaches or suggests this limitation.

Similarly, independent claim 27 requires one or more N-O additives selected from one or more of the group consisting of organic nitrates, inorganic nitrites, potassium nitrate, cesium nitrate, barium nitrate, and ammonium nitrate.

None of the prior art cited by the Examiner teaches or suggests this limitation.

Because claims 2-5, 7-14, 16-26, and 28-36 depend from claims 1 or 27, they are not obvious over Visco ‘812 in view of Visco ‘584.

### **Rejections of Claim Under 35 U.S.C. §103**

Claim 15 stands rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,822,812 (“Visco ‘812”) in view of U.S. Patent No. 6,432,584 (“Visco ‘584”) and further in view of U.S. Patent No. 3,915,743 (hereinafter “Lauck”).

Claim 15 depends from independent claim 1, which is not obvious under Visco ‘812 in view of Visco ‘584 as mentioned in the section above. Lauck fails to cure the deficiencies. Therefore, claim 15 is not obvious for the same reasons.

Further, the Examiner asserts that the combination Visco ‘812 and Visco ‘584 teach the use of dimethoxymethane. This is incorrect. Neither reference teaches the use of dimethoxymethane.

In summary, Claim 15 is not obvious over Visco ‘812 in view of Visco ‘584 and Lauck. Reconsideration and withdrawal of the rejection is respectfully requested.

In view of the comments above, Applicant submits that the Examiner's concerns have been fully addressed, and respectfully requests the rejections under 35 U.S.C. § 102 and 35 U.S.C. § 103 to be withdrawn.

### CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this case, and any required fee, except for the Issue Fee, for such extension is to be charged to **Deposit Account No. 19-3878**.

Respectfully submitted,

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Date

By /Robert P. Auerbach, Reg. No. 46,525/  
Robert P. Auerbach  
Reg. No. 46,525

SQUIRE, SANDERS & DEMPSEY, LLP.  
Two Renaissance Square  
40 North Central Ave., Suite 2700  
Phoenix, Arizona 85004  
Telephone: (602) 528-4000 or (415) 954-0315  
Facsimile: (602) 253-8129